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Dear County and District Superintendents and Charter School Administrators:

Implementation of Assembly Bill (AB) 347: requiring instruction and services for students who have not passed the exit exam but have met all other graduation requirements

In a letter dated July 26, 2007, I advised you that a tentative settlement agreement had been reached in *Valenzuela v. O'Connell et al.*, a lawsuit filed in February 2006 challenging the California High School Exit Examination (CAHSEE). That settlement was contingent on the Legislature's passage and the Governor's signing of AB 347, authored by Assembly Member Pedro Nava. I am pleased to announce that on October 12, 2007, the Governor signed AB 347, which expands the services available to students for up to two consecutive years after completion of grade twelve (currently students in the Classes of 2006 and 2007) who have not yet passed the CAHSEE under the Intensive Service and Instruction and the Middle and High School Counseling Programs. The bill also makes other changes to Education Code sections 1240, 35186, 37254, 52378, and 52380 to implement the settlement. The text of AB 347 can be found at <http://www.leginfo.ca.gov/>.

In summary, the changes to existing law are as follows:

Post-Grade twelve Intensive Services and Instruction

School districts that receive intensive instruction funds per Education Code section 37254 must now ensure that all pupils who have not passed one or both parts of the CAHSEE by the end of grade twelve have the opportunity to receive intensive instruction and services as needed based on the results of the diagnostic assessment and prior results on the high school exit examination, for up to two consecutive academic years after the completion of grade twelve or until the pupil has passed both parts of the CAHSEE, whichever comes first. School districts must employ strategies for intensive instruction and services that are most likely to result in those pupils passing the parts of the CAHSEE that they have not passed. (Ed. Code §37254 (d)(4).)

Additionally, school districts that receive intensive instruction funds per Education Code section 37254 shall ensure that the services provided to English learners who have not passed one or both parts of the CAHSEE by the end of grade twelve include services to improve English proficiency as needed. (Ed. Code §37254(d)(5).) A complete copy of the assurances can be found at <http://www.cde.ca.gov/ta/tg/hs/>.

Notice and Counseling Regarding Post-Grade Twelve Intensive Services and Instruction

The new legislation requires that districts notify and counsel pupils, in the following ways, of the opportunity to access post-grade twelve intensive services and instruction.

In Writing: School districts that receive intensive instruction funds per Education Code section 37254 must ensure that all pupils who have not passed one or both parts of the CAHSEE by the end of grade twelve are notified in writing at the last known address before the end of each school term of the availability of the services in sufficient time to register for or avail themselves of those services each term for two consecutive academic years. Students must also be notified in writing of their right to file a complaint pursuant to the district's Uniform Complaint Process. This notice must be posted in each school and district office and on the Internet Web site of the school district. Further, the notice must comply with the translation requirements of Section 48985. (Ed. Code §37254 (d)(3).)

Posting In Classroom: School districts that receive intensive instruction funds per Education Code section 37254 are required to post notices in classrooms of all tenth through twelfth graders, inclusive, regarding the right of pupils who have not passed the CAHSEE by the end of grade twelve to receive intensive instruction and services for up to two consecutive academic years after completion of grade twelve or until the pupil has based both parts of the CAHSEE, whichever comes first. (Ed. Code §35816 (f)(4).)

Counseling Program: The governing board of each school district that accepts Middle and High School Supplemental Counseling Program funds per Education Code section 52378 must adopt a counseling program that among other things includes a provision for a counselor to explain to pupils the availability of intensive instruction and services, including those described in paragraph (3) of subdivision (c) of Section 37254 for up to two consecutive academic years after the completion of grade twelve or until the pupil has passed both parts of the CAHSEE, whichever comes first. (Ed. Code §52378 (a)(2).)

Identify Pupils: In addition to the counseling services, districts that accept Middle and High School Supplemental Counseling Program funds per Education Code section 52378 must identify pupils who are at risk of not graduating with the rest of their class and inform them of the option of intensive instruction and services for two consecutive years after completion of grade twelve or until the pupil has passed both parts of the CAHSEE, whichever comes first. (Ed. Code §52378 (b)(4).)

Coursework: Districts that receive Middle and High School Supplemental Counseling Program funds per Education Code section 52378 must provide pupils who are at risk of not graduating with the rest of their class with a list of coursework which includes (among others) the option to continuing to receive intensive instruction and services for up to two consecutive academic years after completion of grade twelve or until the pupil

has passed both parts of the CAHSEE, whichever comes first. (Ed. Code §52378 (c)(1)(D).)

Individual Counseling Session: School districts that accept Middle and High School Supplemental Counseling Program funds per Education Code section 52378 shall require each school within its jurisdiction to offer and schedule, at a time prescribed by statute based on the pupil's grade, an individual conference with each pupil who is at risk of not graduating with their class to apprise the pupil (among other things) of the option to receive intensive instruction and services for up to two consecutive academic years after completion of grade twelve, or until the pupil has passed both part of the CAHSEE, whichever comes first. (Ed. Code §52378 (e)(5).)

Reporting

Intensive Instruction and Services: In addition to annually reporting the number of pupils served for each type of service provided, and the number of pupils in the school district who successfully pass the high school exit examination by each type of service provided, school districts that receive intensive instruction funds per Education Code section 37254 must also describe the manner and frequency in which eligible pupils were notified of the intensive instruction and services provided. This report must be submitted to the California Department of Education (CDE) and also to the appropriate county superintendent of schools in a manner determined by CDE. CDE has determined that this reporting will be accomplished via the Consolidated Application, Part II, which will be released in December and must be submitted to CDE by January 31, 2008. (Ed. Code §37254 (d)(8).)

Counseling: In addition to the report submitted above, districts that receive Middle and High School Supplemental Counseling Program funds per Education Code section 52378 previously were required to submit an annual report containing information specified in statute to the CDE. The report now must also be submitted to the appropriate county superintendent of schools and shall now contain an assurance that the school district has conducted an individual conference with pupils who are at risk of not graduating and apprised the pupil in accordance with Section 52378 (e). CDE has determined that this reporting will be accomplished via the Consolidated Application, Part II, which will be released in December and must be submitted to CDE by January 31, 2008. (Ed. Code §52380.)

Monitoring by County Superintendents

County superintendents of school districts that receive intensive instruction funds per Education Code section 37254 must ensure that pupils are informed that they are entitled to receive intensive instruction and services for up to two consecutive years after completion of grade twelve or until the pupil has passed both parts of the CAHSEE and that those who have elected to receive intensive instruction and services, pursuant to paragraphs (4) and (5) of subdivision (d) of Section 37254, are being served. (Ed. Code § 1240(c)(2)(E)(ii).)

Complaints

School districts that receive intensive instruction funds per Education Code section 37254 are required to use the Uniform Complaint Process (UCP) that it has adopted to address complaints related to the provision of intensive instruction and services pursuant to paragraphs (4) and (5) of subdivision (d) of Section 37254. (Ed. Code §35816 (e)(4).)

I am requesting that districts encourage pupils who have not passed the CAHSEE by the end of grade twelve to continue their education and avail themselves of all remediation opportunities, including those the districts make available for intensive instruction and services after grade twelve. I am also urging all districts to identify a contact person in the district who can assist pupils who have questions, concerns, or complaints regarding the availability of the additional instruction. Finally, I am also requesting that you include the name and phone number of that contact person in any CAHSEE-related written communication with or notifications to pupils in the district who have not passed the CAHSEE by the end of grade twelve.

I deeply appreciate your help in the dissemination of this vital information to students who need additional support to master the skills measured by the CAHSEE and which are necessary for students' success in life after high school. I encourage you to make use of the intensive instruction and services funds as well as the supplemental counseling funds to achieve these goals.

Sincerely,



JACK O'CONNELL

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cc: CAHSEE Coordinators
Uniform Complaint Procedure Coordinators